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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/664,179	09/18/2000	Nathan F. Raciborski	19396-000900US	1898

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EXAMINER

MASTRACCI, DARYL R

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 10/30/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/664,179

Applicant(s)

RACIBORSKI ET AL.

Examiner

Daryl R Mastracci

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-4, 5-9, 22-26, 27-29, 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-4, 5-9, 22-26, 27-29, 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2-4, 6-9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 3-4, 5-9, 22-26, 27-29, and 30-32 are pending in this Office Action.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 3-4, 5-9, 22-26, 27-29, and 30-32, drawn to a method of providing an address of a device on a network, classified in class 709, subclass 245.
- II. Claims 33-40, drawn to a method of requesting data on a network, classified as 709, subclass 246.

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a method of providing an address of a device on a network. Invention II has a separate utility because it provides a method of requesting data on a network. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with William Vobach on 9/12/3003 a provisional election was made with traverse to prosecute the invention of Raciborski et al., claims 3-4, 5-9, 22-26, 27-29, 30-32. Affirmation of this election must be made by applicant in

replying to this Office action. Claims 33-40 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 3 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,330,602 B1 issued to Law et al. ("Law").

With respect to claim 3, Law teaches a method of providing an address, said method comprising: providing a requesting device [client] coupled to a network (Fig. 1-3); providing an address, said address comprising a protocol identifier [TCP] (Fig. 4; col.

4, line 60- col. 5, line 9; col. 6, lines 25-27); providing a port identifier, said port identifier operable to identify a port on said requesting device (col. 4, line 60- col. 5, line 9, 42-42-50; col. 6, lines 25-31); including said port identifier as part of said address (col. 4, line 60- col. 5, line 9, 42-42-50; col. 6, lines 25-31); transmitting said address from said requesting device onto said network (Fig. 1-3; col. 4, lines 36-59); receiving said address at an intermediate device (Fig. 1-3; col. 4, line 36- col. 5, line 18); addressing a data provider device while including said port identifier as part of an address string (Fig. 3; col. 4, line 36- col. 6, line 45).

Claims 5-9, 22, and 24-32 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,371,852 issued to Attanasio et al. ("Attanasio").

With respect to claim 5, Attanasio teaches a method of providing an address, comprising: providing a protocol identifier (Fig. 3A-3E; col. 5, lines 12-40; col. 8, lines 25-38, 43-58); providing an IP identifier (Fig. 3A-3E; col. 8, lines 15-24; col. 9, lines 33-56); providing a requesting device identifier [source address] (Fig. 3A-3E; col. 5, lines 29-40; col. 9, lines 45-54; col. 10, lines 51-55); and providing a requesting device port identifier [source port] (Fig. 3A-3E; col. 5, lines 29-40; col. 8, lines 25-38; col. 10, lines 51-55).

Claim 22 is essentially the same as claim 5, and is rejected on the same basis.

Claim 27 is essentially the same as claim 5, and is rejected on the same basis.

Claim 30 is essentially the same as claim 5, and is rejected on the same basis. Attanasio teaches the further limitations apparatus, computer, and code (col. 5, lines 3-40).

With respect to claim 6, Attanasio teaches the method as described in claim 5 and further comprising: coupling said protocol identifier with said IP identifier, said requesting device identifier and said requesting device port identifier [interpreted as the incoming data packet header information] (Fig. 3C-3E; col. 5, lines 29-40; col. 8, lines 50-68; col. 10, lines 51-55).

With respect to claim 7, Attanasio teaches the method as described in claim 5 and further comprising: providing a file identifier [message data] (Fig. 3C-3E).

Claim 26 is essentially the same as claim 7, and is rejected on the same basis.

Claim 28 is essentially the same as claim 7, and is rejected on the same basis.

Claim 31 is essentially the same as claim 7, and is rejected on the same basis.

With respect to claim 8, Attanasio teaches the method as described in claim 7 and further comprising: coupling said protocol identifier with said IP identifier [destination IP address], said requesting device identifier [source address], said requesting device port identifier, and said file identifier (Fig. 3C-3E; col. 5, lines 29-40; col. 8, lines 50-68; col. 10, lines 51-55).

Claim 32 is essentially the same as claim 8, and is rejected on the same basis.

With respect to claim 9, Attanasio teaches the method as described in claim 8 and further comprising: organizing said address structure so that said port identifier is

adjacent said requesting device identifier [adjacent in header] (Fig. 3A-3E; col. 8, lines 43-67; col. 10, lines 51-55).

With respect to claim 24, Attanasio teaches the data structure as described in claim 22 wherein said requesting device identifier field [source address] is located between said protocol identifier field and said Internet protocol identifier field [destination IP address] (Fig. 3C).

With respect to claim 25, Attanasio teaches the data structure as described in claim 22 wherein said requesting device port identifier is located adjacent to said requesting device identifier (Fig. 3D-3E; col. 5, lines 35-40; col. 10, lines 51-55). It is inherent in Attanasio that the source port number is associated with the source address.

With respect to claim 29, Attanasio teaches the computer data signal as described in claim 27 wherein said requesting device port identifier is operable for designating a port on a requesting device from which a request for data originated (Fig. 3A-3E; col. 5, lines 29-40; col. 8, lines 25-38; col. 10, lines 51-55).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Law in view of US Patent No. 5,774,660 issued to Brendel et al. ("Brendel").

With respect to claim 4, Law teaches the method as described in claim 3, but does not explicitly state transmitting a message from said data provider to the port of said requesting device identified by said port identifier. Brendel teaches load balancing, and transmitting the requested file back directly to the client while bypassing the load-balancer (Fig. 6; col. 9, line 18- col. 10, line 7). It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the direct transmission from server to client, as taught by Brendel, into Law. One of ordinary skill in the art would do this so that the client transparently receives the requested service. This is beneficial for transparent load balancing or routing, wherein the requested service is delivered to the requestor without knowledge of where the service originated or how the request was routed (Law: col. 4, lines 45-54; col. 5, line 65- col. 6, line 3).

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Attanasio.

With respect to claim 23, Attanasio teaches the data structure as described in claim 22, and the sequence of identifiers in the data structure (Fig. 3C). Attanasio teaches the source address being between the protocol identifier and the destination IP address (Fig. 3C). Attanasio does not explicitly state wherein said Internet protocol identifier field [destination IP address] is located between said protocol identifier field and said requesting device identifier field [source address]. It would have been obvious to a person of ordinary skill in the art at the time of the invention to arrange the data structure, of Attanasio, as claimed. One of ordinary skill in the art would do this so that

the protocol and destination are first analyzed, and then associated with the source address. This is beneficial in distributed routing of requests (Fig. 3C; col. 5, lines 12-40; col. 11, lines 5-20).

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 5423002 issued to Hart

US Patent No. 6,097,882 issued to Mogul

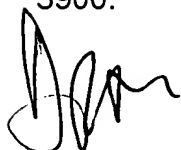
US Patent No. 6,473,406 B1 issued to Coile et al.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daryl Mastracci whose telephone number is (703) 305-0325. The examiner can normally be reached on Monday-Friday (8:30-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (703) 308-6662. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



DRM
October 20, 2003


HOSAIN ALAM
SUPERVISORY PATENT EXAMINER